



Commercial Pressures on Land

Global conclusions and recommendations

Ward Anseeuw
(CIRAD / University of Pretoria)

Hyderabad, 13th IASC conference “Sustaining Commons: Sustaining our Future”,
10-14 January.



1) Rural populations, women and minorities are the most affected by commercial pressures on land

- ❖ Land is often **the most significant asset** of the poor (Subsistence, exiting poverty)
- ❖ **Lack of well-defined rights** - More evident in the case of women, minorities (seldom consulted due to lack of land rights and lack of public voice).
- ❖ **High risks for the poor**
 - Mixed to little evidence thus far regarding benefits of CPL (benefits have not lived up to (often unrealistic) promises)
 - Risks are significant
(neglect of rural local communities, weakening institutions, dispossession of communities of customary land rights, lost assets without compensation such as land, homes and social capital, degradation of natural resources and growing inequalities, etc.).
- ❖ **The poor disproportionately bear the costs** - often do not reap the benefits
- ❖ Not building sufficiently on lessons learnt from the past/other sectors



2) Commercial pressures on land as broad, historically and politically embedded phenomena

- ❖ **CPL not only the results of conjunctural shocks** but also of longer trends.
 - **Conjunctural aspects:** FS, biofuel, industrial requirements, carbon sequestration, tourism, rent-seeking and speculation
 - **Global tendencies:** population growth and changing consumption patterns as well as a political-economic tendencies of the world economy
 - Inherent to a liberalization approach to agricultural production and NR, involving 'financialisation' and commodification of goods and resources
 - Promotion of globalization, in the name of economic efficiency and growth,
- ❖ **CPL not only a technical issue**, but also a political one
 - It is a **totalizing process** - about power and concentration of wealth
 - Hence, technical aspects only (securing land rights, codes of conduct) will not suffice



3) Commercial pressures on land are internally generated

- ❖ **Wide range of actors** drive commercial pressures on land
 - Not a foreign problem solely
 - Also host governments or local elites
 - Relationships between actors vary tremendously, often strongly intertwined

- ❖ Host countries, national and local elites do play a **facilitating role** in land deals
 - Measures to facilitate land acquisitions, officially in order to increase investment, with buy in of local elite
 - In a context where accountability is limited and local (land) rights are insecure, deals are often non transparent, benefitting the well connected.



4) Too much reliance is being placed on international instruments and agencies to protect the poor

- ❖ Codes of conduct, international instruments, international investment, trade and human rights law are insufficiently
 - **Voluntary instruments** without enforcement mechanisms, not internationally binding instrument
 - Mostly are **investor-protection** centred and too narrow in scope
 - **Unenforceable** by ordinary poor communities
- ❖ Could lead to:
 - **Unreasoned justification of the commodification** or individual privatization processes and thus of the development trajectory engaged in
 - **Exogeneisation** of a problem that is as much endogenous



5) Commercial pressure on land is occurring on the basis of unproven “public purpose”

❖ Undemonstrated ‘public purpose’ - Linked to the pervasive retention of the notion of “terres sans maitre” or “**vacant and unoccupied lands**”.

- Construct of public lands, whereby all unregistered property is deemed public land, and public land is handed over to governments to administer
- Only developed or utilised lands (clearance, houses, and cultivation) are subject to registration

❖ Commons land users more **vulnerable to involuntary land loss**, it also lead to **under-compensation** of affected communities

❖ **There is not such a thing as available land anymore** – even the commons are always occupied, no matter how light or seasonally there are used



6) A founding impediment to rural communities is the weak status of customary land rights in national law

- ❖ Weak status of land rights and the not well defined land rights at individual/community level
- ❖ Despite land tenure reforms:
 - Legal status: customary holders have **only access and use rights**
 - **No property** of rural communities (house plots and cultivated lands)
 - Governments hold the real or effective title to these same lands
- ❖ CPL not cause of insecurity, but brings existing insecurity of tenure to the fore
- ❖ While law is not a panacea, getting the legal norms in place - which support and protect customary land rights inclusive of common property rights - is a prerequisite



7) A major obstacle to equitable benefit from commercial pressures on land is local level institutional disempowerment

- ❖ Even with legal protection, common properties remain most vulnerable
 - A major cause : **local level institutional disempowerment**
- ❖ Efforts towards genuine devolution of controlling administration to the community level
 - but very little action has been taken to deliver democratically elected and empowered community-level land institutions
 - decentralised entities are often no more than **advisory bodies**
 - **unelected elites/chiefs** - not accountable to village members, insufficiently embedded in the land governance



8) Lack of debates - Blindfolded acceptance of investments, commercial pressures on land and the hegemonic globalization model

❖ **‘huge is beautiful’** is hegemonic (Economies of scale necessary within a sector in the context of liberalization/globalization)

- **Lack of debate** around these issues and alternatives
- **resulting in the global acceptance** of the hegemonic model, sometimes under pressure of external conditionalities, as well as the buy in of local elites

❖ **Lack of Broader reflection** on land-based activities, their role in development, their evolution in a globalized world and their capacities to respond to wider demographic, social and political context

- Other options? Transformation of agriculture mainly based on project-based investments may be insufficient
- Limits? Nor reflections concerning the sector's capacities to absorb its actives or on the restructuring of the structure composing the sector (redistribution of assets, alternative job opportunities, etc.) do appear
- Questions the country's political economy, structures and foundation



Recommendations

**What Can Be Done to Limit Involuntary
Loss of People's Common Lands?**



1) Expand attention to local land rights beyond the current wave of leasing for agrofuel and food production

❖ Focus is mainly on the most obvious conjunctural triggers - Forest, carbon, tourism, etc.

❖ Less obvious triggers (rent-seeking, speculation, land as an alternative investment)

❖ **Long term drivers** (political, population growth, ...)

❖ **Enabling factors**

❖ Draws the attention on the **complexity and embeddedness** of the commercial pressures on land phenomenon.



2) The need for transparency and the development of investment policies and regulations

- ❖ Rather than only international regulations, there is a need for national (and regional) regulations, effective policies and procedures regarding investment
- ❖ Should include:
 - clarifications of investment/land **acquisition procedures**, ESIA's, assessment of costs and benefits, development of conditions, skillful negotiations, etc.
 - Need to adopt a more **just interpretation of public purpose**
 - **Open up for expert commissions** of inquiry (viability and implementation)
- ❖ Allow to increase accountability between investors and local communities, but also between local and national government and communities.



3) Protecting local rights by implementing land tenure reform

- ❖ Promotion of **legal recognition of long-standing occupancy and use** as private/individual property rights (irrespective of whether or not this is formally registered or whether or not the properties are possessed individually, by families or by communities)
- ❖ Requires **policy and legal changes**, which should include:
 - * **Recognition that customary lands are owned**, not made available by national governments
 - * Promote **land reform overall and rapidly** - The latter should include extensive public debate,
 - * **Move 'off-the-farm'** and abandonment of the legal pretence that cultivation and housing are alone indicative of effective occupation and use



4) Empowerment of democratic local land administration to manage and protect local rights

- ❖ To concretely decentralize rural land administration:
 - administrative actions which directly and comprehensively enable communities to **define and secure land rights formally**
 - **Democratization of traditional authority** to the extent that that decision-making is circumscribed by requirements for majority approval
 - **Establishment of the local level administrations** - fully empowered, democratic land administration at the community level.
 - **Capacity building** and empowerment of local communities



5) Local consent, consultations and the democratization of the investment and public policy sphere

Lands should not be removed by government or other actors without the consent of these bodies

- ❖ **Adoption of local consent standards** – land acquisition conditional upon community wide consultation and negotiated conditions.
- ❖ Complemented with the **democratization of the investment and public policy** spheres.
 - Participatory policy development (investment procedures, specific policies)
- ❖ CPL are **monitored and massively informed** upon in order to sensibilise public opinion and to put the commercial land pressure issue on the public national and international agenda.



6) From compensation to the promotion of shareholding approach

If land acquisition is necessary for public purposes:

❖Fair compensation:

- Compensation is often partially and often only covers loss of improvements (crops, trees, buildings) but not for loss of land rights (as the land is often owned by the state).
- In addition, loss of other resources, such as water and forest resources, but especially loss of livelihoods, are rarely if ever compensated.

❖Promotion of alternative arrangements for local populations, wherein affected communities are more than contracted parties or beneficiaries of social or other pay-offs (forms of shareholding for example)



7) The need to stop unlimited profit making on basic need goods

- ❖ Land and land-related activities should **not be treated as mere commodities**, but rather as elements of a complex social, environmental and cultural pattern
 - Should therefore not be opened indiscriminately to trade liberalization
- ❖ Such inclusions **questions the entire liberalization** of agriculture and land-related activities under the parameters of the WTO's AoA, but also other trade agreements and bilateral cooperations
- ❖ **Calls for regulation** of certain practices, including investment, trade, etc.
 - The need to rethink the development models we are presently engaged in



8) The need to engage in in-depth reflections and debates regarding genuine alternative development trajectories, models and policies

❖ **There are alternatives** that can work

- **Alternative production systems** (including family agriculture)
- **Institutionalize the rights** of the local populations
- Strengthen **local and inherent economic and social development** (local incentives)
- **Inherent in an overall long term development strategy** - and not just based on a short term vision based on isolated projects dependent on (temporary?) foreign funds

❖ The need for:

- More **structural reflections** (overall socio-economic trajectories, including on agricultural reforms, land based-activities and rural development, ...) questioning the present solely project-based investments
- Broader reflections and a strategic vision **based on vigorous public debate** - informed by bottom-up interests and stakes



8) The need to engage in in-depth reflections and debates regarding genuine alternative development trajectories, models and policies

❖ **There are alternatives** that can work

- **Alternative production systems** (including family agriculture)
- **Institutionalize the rights** of the local populations
- Strengthen **local and inherent economic and social development** (local incentives)
- **Inherent in an overall long term development strategy** - and not just based on a short term vision based on isolated projects dependent on (temporary?) foreign funds

❖ The need for:

- More **structural reflections** (overall socio-economic trajectories, including on agricultural reforms, land based-activities and rural development, ...) questioning the present solely project-based investments
- Broader reflections and a strategic vision **based on vigorous public debate** - informed by bottom-up interests and stakes



Thank you

Ward ANSEEUW
CIRAD/University of Pretoria
Post-Graduate School of Agriculture and rural
Development
University of Pretoria
Pretoria 0002
South Africa

Ward.anseeuw@up.ac.za